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HAWAII DISABILITY RIGHTS CENTER

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

HAWAII DISABILITY RIGHTS
CENTER, in a representative capacity
on behalf of its constituents,

Plaintiff,

vs.

CHRISTINA KISHIMOTO, in her
official capacity as Superintendent of
the State of Hawai'i, Department of
Education; and PANKAJ BHANOT, in
his official capacity as Director of the
State of Hawai'i, Department of
Human Services,

Defendants.

Case No. CV18-00465 LEK-RLP

**REPORT OF THE PARTIES'
PLANNING MEETING;
CERTIFICATE OF SERVICE**

Rule 16 Scheduling Conference:

Date: January 28, 2019

Time: 9:30 a.m.

Judge: Hon. Richard L. Puglisi

No Trial Date

REPORT OF THE PARTIES' PLANNING MEETING

Plaintiff Hawai'i Disability Rights Center ("**Plaintiff**") hereby submits this Report of the Parties' Planning Meeting pursuant to Rule 26(f) of the Federal Rules of Civil Procedure ("**FRCP**") and Rule 26.1 of the Local Rules of Practice for the United States District Court for the District of Hawai'i ("**Local Rules**").

I. MEETING

Counsel for the parties conferred in person on Monday, January 7, 2019 at 1:00 p.m. Kristin L. Holland, Esq., and Maile Osika, Esq., participated on behalf of Plaintiff. Ryan Akamine, Esq., and Skyer G. Cruz, Esq., participated on behalf of Defendants Christina Kishimoto (in her official capacity as Superintendent of the State of Hawai'i, Department of Education), and Pankaj Bhanot (in his official capacity as Director of the State of Hawai'i, Department of Human Services) (together, "**Defendants**").

II. DISCOVERY PLAN

Pursuant to FRCP Rule 26(f)(3), the parties discussed the following views and proposals on a discovery plan:

A. Initial Disclosures (FRCP Rule 26(f)(3)(A))

The Parties agreed to exchange initial disclosures on January 21, 2019, within 14 days after the parties' FRCP Rule 26(f) conference, as required by FRCP Rule 26(a)(1)(C).

B. Scope and Timing of Discovery (FRCP Rule 26(f)(3)(B))

Pursuant to Dkt. No. 24, this Court granted Plaintiff's request for limited FRCP Rule 30(b)(6) depositions of Defendants' representatives in advance of the evidentiary hearing on Plaintiff's pending Motion for Preliminary Injunction filed on November 28, 2018 ("**Motion**") [Dkt. No. 8]. The parties have subsequently agreed to February 14, 2019 for the FRCP Rule 30(b)(6) depositions. A date for the evidentiary hearing on the Motion will be set after the depositions occur [*See* Dkt. No. 30].

Plaintiff served document requests on Defendants' counsel at the planning meeting on January 7, 2019. The Parties agree that all other discovery shall be conducted in accordance with this Court's normal practice, the FRCP, and the Local Rules. The parties will conduct customary discovery on the claims and defenses asserted, and will attempt to resolve discovery disputes among themselves before bringing any disputes before the Court. The discovery deadlines should be set as usual in the ordinary course.

C. Electronic Discovery (FRCP Rule 26(f)(3)(C))

Plaintiff requested that Defendants actively retain documents related to the parties claims and defenses. Defendants represented that they have issued a litigation hold to preserve those documents in their possession. Similarly, Plaintiff has issued a litigation hold to preserve documents in its possession.

The parties do not at this time anticipate issues concerning disclosure or discovery of electronically stored information (“ESI”) that will require the intervention of the Court. The parties agree to work together to produce ESI in a mutually beneficial format.

D. Privilege (FRCP Rule 26(f)(3)(D))

The Parties discussed and agreed to the need for a stipulated protective order to address concerns regarding private medical and educational information, as instructed by the Court on December 18, 2018 [Dkt. No. 15]. The Parties agreed to a Stipulated Protective Order, which this Court entered on January 17, 2019 [Dkt. No. 29].

At this time, the parties do not anticipate any unusual issues concerning claims of privilege, work product, or of protection of trial-preparation materials.

E. Limitations on Discovery (FRCP Rule 26(f)(3)(E))

At this time, the parties do not anticipate any need for changes in the limitations on discovery imposed under the FRCP or by Local Rules.

The early FRCP Rule 30(b)(6) depositions relating to the evidentiary hearing on the Motion are limited in scope and limited in time to ninety (90) minutes for each witness from the DOE and DHS [Dkt. No. 24]. Plaintiff reserves the right to conduct full FRCP Rule 30(b)(6) depositions of these parties at a later date.

F. Other Orders (FRCP 26(f)(3)(F))

Any other orders, as may be necessary, should be set by order at the Scheduling Conference pursuant to this Court's normal practice and schedule, the FRCP, and the Local Rules.

III. OTHER MATTERS

Pursuant to LR26.1(c), the Parties discussed alternative dispute resolution options, including, without limitation, the option of participation in the court's mediation program. The parties are prepared to consider this matter further and discuss options at the Scheduling Conference.

At this point, the parties are open to settlement discussions facilitated by a Magistrate Judge. The parties have and will continue to communicate

regarding other matters related to discovery and other issues in advance of the Scheduling Conference.

DATED: Honolulu, Hawai'i, January 18, 2019.

/s/ Maile Osika

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